

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSE OF : STATE BOARD OF EXAMINERS
ROBERT URCIUOLI : ORDER OF REVOCATION

DOCKET NO. 406-09/96-125

At its meeting of September 26, 1996, the State Board of Examiners reviewed information provided by the Office of Criminal History Review indicating that Robert Urciuoli had been disqualified from public school employment pursuant to N.J.S.A.18A:6-7.1 *et seq.* due to his 1991 conviction on charges of possession of a controlled dangerous substance. He was sentenced to two (2) years probation and fined \$1,110.00. Currently, Respondent holds a Secondary School Teacher of Science license in New Jersey.

At that meeting, the State Board of Examiners voted to issue an Order to Show Cause to Respondent based on the aforestated information. The Order was mailed to Respondent by regular and certified mail on October 23, 1996. On November 8, 1996 an Answer to the Order to Show Cause was received from Respondent.

In the interim, the State Board of Education decided two cases which impacted on the hearing process conducted by the State Board of Examiners. The first case is captioned, In the Matter of the Revocation of the Teaching Certificate of Philip Sheridan by the State Board of Examiners, Dkt No 185-4/92-07, decided by the State Board of Examiners July 6, 1992, rev'd, and remanded, State Board of Education, September 7, 1994, Decision on Remand, June 15, 1995. The other is captioned, In the Matter of the Revocation of the Teaching Certificate of Charles Vitola by the State Board of Examiners, Dkt. No. 178-12/91-08, decided by the State Board of Examiners July 16, 1992, rev'd and remanded, State Board of Ed., November 2, 1994, Decision on Remand, September 1, 1995. Within these two decisions, the State Board of

Education determined that the State Board of Examiners was required to amend its regulations in order to permit it to hear directly legal matters in which material facts are not in dispute. During the pendency of the revisions to the State Board of Examiner's regulations regarding its hearing process, all such hearings were held in abeyance. Said regulatory amendments were finally codified in May of 1997.

On July 1, 1997, a hearing notice was mailed by regular and certified mail to Respondent pursuant to N.J.A.C. 6:11-3.6(a)1. Said notice explained that, it appearing that no material facts were in dispute, Respondent was provided an opportunity to offer legal argument on the issue of whether his conviction constituted conduct unbecoming a teacher. The certified mail return receipt was signed and returned. The regular mail copy was not returned. No response was received by or on behalf of Respondent.

On August 15, 1997, Respondent was advised by regular and certified mail that he was being provided an additional ten (10) days to file a response to the initial hearing notice. The certified mail was returned unclaimed. The regular mail copy was not returned. Although aware that the State Board of Examiners had initiated charges against him that could have serious consequences for his ability to seek employment as a substitute teacher, he failed to respond to the hearing notices. He has therefore, waived his right to participate in the hearing process. Thus, the State Board of Examiners will consider Respondent's Answer to the Order to Show Cause as his sole submission to counter the charges brought against him.

At its meeting of November 20, 1997, the State Board of Examiners reviewed the charges against Respondent as well as his response to the Order to Show Cause. After review of his response, the State Board of Examiners determined that no material facts related to Respondent's drug offense were in contest. Respondent did not deny that he has a conviction for illegal drug

use. The matter could, therefore, proceed to a determination as to whether the charges levied against him in the Order to Show Cause constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

Respondent's Answer to the Order to Show Cause admits the conviction against him exists, but claims it was a single episode on an otherwise unblemished teaching as well as criminal record. He submits that he is completely rehabilitated, and offers support for this proposition in the form of recommendations from friends and associates. He submits that while he understands the seriousness of his past action, he has paid the price. He claims he would like the opportunity to return to the profession for which he is best suited. He hopes that a review by the State Board of Examiners of the last six years of his life after rehabilitation will clearly demonstrate that reinstatement of his teaching license is warranted. To prove his rehabilitation, he is willing to submit to any conditions, guidelines or testing deemed necessary.

The State Board of Examiners first noted that the instant hearing is not one which considers evidence of rehabilitation. See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, decided by the State Board of Examiners March 28, 1996, aff'd State Board of Education September 6, 1996, aff'd App. Div. September 9, 1997. Therein, the State Board of Examiners held:

Neither does the language of this regulation [N.J.A.C. 6:11-3.6] support Petitioner's apparent contention that "new findings" includes evidence of rehabilitation or current ability to teach. See, e.g., In the Matter of the Revocation of the Teaching Certificate of James Noll by the State Board of Examiners, decided by the State Board of Examiners, February 7, 1990, citing Cox v. State Bd. of Examiners (App. Div. Docket No. A-3527-81T3)(November 18, 1983). Therein, it was determined that the purpose of the hearings conducted by the State Board of Examiners pursuant to N.J.A.C. 6:11-3.7(b)ii (now, N.J.A.C. 6:11-3.6(a)1) is 'to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth the Order to Show Cause, not to afford an opportunity to show rehabilitation. (Id. at p. 4)

Hence, the State Board of Examiners did not consider Respondent's statements concerning his alleged rehabilitation, but instead focused on assessing whether the criminal charge at issue constitute conduct unbecoming a license holder.

School law cases have traditionally recognized the right of the State Board of Examiners to revoke licenses where the teacher was involved in criminal activities, even if said activities were not related to the classroom, see Cox v. State Board of Examiners (App. Div. Docket No. A-3527-81T3) (November 18, 1983); State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981). The use of drugs and the possession of drugs are inconsistent with the State's policy to eliminate drug abuse in the schools, In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689. Misuse of dangerous drugs by students themselves, or by the role models to whom students look for guidance, will not be tolerated under any circumstances. In the Matter of the Certificate of Barbara Corwick, OAL Docket No. EDE 3562-87, State Board of Examiners decision (March 24, 1988).

Moreover, Mr. Urciuoli is also disqualified from employment in the public schools of New Jersey pursuant to N.J.S.A. 18A:6-7.1 as a result of his drug conviction. In enacting that statute, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. That strong policy statement on the part of the Legislature offers guidance to the State Board of Examiners as to the appropriate sanction in this matter.

Accordingly, in light of this State's strong policy opposing the use of illegal drugs, the State Board of Examiners finds respondent's conviction conduct unbecoming a license holder. The appropriate penalty for his unbecoming conduct is the revocation of Respondent's licensure due to his disqualification based on a drug conviction.

It is, therefore, ORDERED that the disqualification from public school service pursuant to N.J.S.A. 18A:6-7.1 et seq., based on charges as expressed in the Order to Show Cause issued against Respondent, warrant revocation of Robert Urciuoli's Secondary School Teacher of Science license. Robert Urciuoli's Secondary Teacher of Science license is hereby revoked on this 20th day of November, 1997.

It is further ORDERED that Robert Urciuoli return his license to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

Secretary
State Board of Examiners

Date of Mailing: February 10, 1998

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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